



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

Kolisch, Hartwell, Dickinson
McCormack & Heuser
Suite 200
520 S.W. Yamhill Street
Portland, OR 97204

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Christopher B. McKay, et. al.
Application No. 10/037,471
Filed: December 21, 2001
Attorney Docket No. MCW 306

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003 and supplemented by facsimile transmission on November 25, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 8, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 8, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition \$665 for the petition to revive fee, \$740 for four (4) months extension of time, oath/declaration, \$385 for the small entity basic filing fee, \$65 for the late filing of the oath/declaration, and \$387 for claim fees.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$740 extension of time submitted with the petition on October 14, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A courtesy copy of the decision is being mailed to petitioner at the address listed on the instant petition.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Christopher B. McKay
P.O. Box S-3551
Carmel, CA 93921-0589

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____		2 Serial/Patent # <u>10037041</u>	
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED
			6 AMOUNT
<input type="checkbox"/>	Filing		\$
<input type="checkbox"/>	Amendment		\$
<input checked="" type="checkbox"/>	Extension of Time	<u>8</u>	\$ <u>740</u>
<input type="checkbox"/>	Notice of Appeal/Appeal		\$
<input type="checkbox"/>	Petition		\$
<input type="checkbox"/>	Issue		\$
<input type="checkbox"/>	Cert of Correction/Terminal Disc.		\$
<input type="checkbox"/>	Maintenance		\$
<input type="checkbox"/>	Assignment		\$
<input type="checkbox"/>	Other		\$
		7 TOTAL AMOUNT OF REFUND \$ <u>740</u>	
10 REASON:		8 TO BE REFUNDED BY:	
		<input checked="" type="checkbox"/> Treasury Check <input type="checkbox"/> Credit Deposit A/C #: <u>11--1540</u>	
<input type="checkbox"/>	Overpayment		
<input checked="" type="checkbox"/>	Duplicate Payment		
<input checked="" type="checkbox"/>	No Fee Due (Explanation):		
<u>E.O.T. filed outside six(6) months Statutory Pl. for reply.</u>			
11 REFUND REQUESTED BY:			
TYPED/PRINTED NAME: <u>Andrea Smith</u>		TITLE: <u>Pats. Examr.</u>	
SIGNATURE: <u>[Signature]</u>		PHONE: <u>703/308-6711</u>	
OFFICE: <u>Dir. of Pctns.</u>			
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****			
APPROVED: <u>[Signature]</u>		DATE: <u>2/13/04</u>	

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B